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10 *Counsel for proposed intervenor,*
11 *Dennis Dilbeck*

12 **IN THE UNITED STATES DISTRICT COURT**
FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 **SAN FRANCISCO DIVISION**

14 NETFLIX, INC. a Delaware corporation,

15 Plaintiff,

16 v.

17 BLOCKBUSTER INC., a Delaware
18 corporation, and DOES 1-50,

19 Defendants.
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No. C 06 2361 WHA JCS
Judge William Alsup
DECLARATION OF ALAN
HIMMELFARB

22 **DECLARATION OF ALAN HIMMELFARB**
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Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I am admitted to the U.S. District Court of the Northern District of California.
2. I read Federal Rule Civil Procedure 6(a) to modify Civil Local Rule 7-4's 14-day deadline to run "the end of the next day" after November 23 (Thanksgiving Day), November 24 (a legal holiday pursuant to Cal. Gov't Code § 19853(a)), November 25 (a Saturday), and November 26 (a Sunday) – i.e., November 27.
3. I believed that Dilbeck's Consolidated Reply in Support of his Motion for Leave to Intervene was timely filed on November 27 until I received a phone call from the Court's clerk.
4. Counsel has not contacted the existing parties in connection with this Motion. Under the circumstances, counsel believed it would be better to file the attached Motion to Extend Time immediately rather than delay further seeking a stipulation from the existing parties to extend the time to file the Consolidated Reply.
5. The existing parties have already filed their oppositions to Dilbeck's Motion to Intervene and are not prejudiced by the extension of time sought by Dilbeck. The Court has been deprived of one business day's time to review Dilbeck's Consolidated Reply. Hence, Counsel believes the prejudice to the Court and to the case's schedule is negligible.
6. Dilbeck has not previously sought any modifications of any other time limits in this case.
7. I declare under penalty of perjury, that the foregoing is true and correct.

DATE: November 27, 2006

/s/Alan Himmelfarb
ALAN HIMMELFARB